

**CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR
OF THE DEPARTMENT OF PLANNING AND DEVELOPMENT**

Project Proposal: The adoption of an ordinance to amend provisions for businesses involved in the production, processing, or sale of marijuana and marijuana products.

Project Sponsor: City of Seattle Department of Planning and Development

Location of Proposal: The proposal is a non-project action, applicable to multiple parcels in a variety of zones throughout the City.

SUMMARY OF PROPOSED ACTION

The proposal is a non-project action, applicable City-wide, that would amend: Section 23.42.058 of the Land Use Code with respect to use provisions for major marijuana activity; use buffering provisions; odor-control related provisions; the definition of major marijuana activity in Section 23.84A.025 to reduce the threshold above which marijuana activity must meet locational and licensing requirements; and a number of other sections of the Seattle Municipal Code with respect to the production, processing, or sale of marijuana and marijuana products.

The following approval is required:

SEPA - Environmental Determination - Chapter 25.05, Seattle Municipal Code.

SEPA DETERMINATION ☐ Exempt ☒ DNS ☐ MDNS ☐ EIS

 ☐ DNS with conditions

 ☐ DNS involving non-exempt grading or demolition or
 involving another agency with jurisdiction.

BACKGROUND

Proposal Description

The proposed Code amendments accomplish the following:

- Redefining “restricted areas” in relation to major marijuana activity to be areas where such activity is prohibited, in zones that include:
 1. Single-family zones;
 2. Multi-family zones;
 3. Neighborhood Commercial 1 (NC1) zone;

4. Pioneer Square Mixed (PSM);
5. International District Mixed (IDM);
6. International District Residential (IDR);
7. Downtown Harborfront 1 (DH1);
8. Downtown Harborfront 2 (DH2);
9. Pike Market Mixed (PMM);
10. Ballard Avenue Landmark District;
11. Columbia City Landmark District;
12. Fort Lawton Landmark District;
13. Harvard-Belmont Landmark District;
14. International Special Review District;
15. Pike Place Market Historical District;
16. Pioneer Square Preservation District;
17. Sand Point Overlay District; or
18. Stadium Transition Area Overlay District.

- Defining buffer distances from certain uses:
 - 1,000 feet from any lot line of property containing elementary schools, secondary schools, or playgrounds;
 - 250 feet from any lot line of property containing child care centers, game arcades, libraries, public parks, public transit centers, or recreation center or facility.
 - Major marijuana activity involving retail transactions may be located within 500 feet from no more than one other property containing state licensed major marijuana activity involving retail transactions.
- The distance buffers are measured from all lot lines of each property on which certain state licensed major marijuana activity is occurring.
- Revising the definition of “major marijuana activity” with respect to thresholds as follows:

	Old Threshold	New Threshold
Production	45 plants	Any production outside a dwelling unit or production inside a dwelling unit including more than 15 plants, except that 60 plants are allowed for registered cooperatives
Processing	72 ounces of useable marijuana or an amount of marijuana-infused product that could reasonably be produced with 72 ounces of useable marijuana on-site	Any processing outside of a dwelling unit or any processing within a dwelling unit other than the drying or incorporation into food of the product of 15 plants, except that the drying or incorporation into food of the product of 60 plants is allowed

		for registered cooperatives
Selling & Delivery	72 ounces of useable marijuana or an amount of marijuana-infused product that could reasonably be produced from 72 ounces of useable marijuana on-site	Any selling or delivery

- Prohibiting “major marijuana activity” in association with residential uses (except caretaker’s quarters).
- Language is added to several sections to clarify that major marijuana activity is subject to Section 23.42.058 as well as other regulations of the zones, including for: Commercial zones (23.47A); Seattle Mixed zones (23.48); Downtown zones (23.49); Industrial zones (23.50); Pioneer Square Preservation District and International Special Review District (23.66).
- Making certain major marijuana activity subject to major odor source rules, which calls for consultation with the Puget Sound Clean Air Agency (PSCAA) about odor control measures.

Public Comment

Proposed changes to the Land Use Code require City Council approval. Public comment will be taken on the draft ordinance and Director’s report published with this determination and on the proposed text changes during future Council hearings.

ANALYSIS - SEPA

This proposal is an adoption of legislation and is defined as a non-project action. The disclosure of the potential impacts from this proposal was made in an environmental checklist submitted by the proponent, dated September 1, 2015. The information in the checklist, a copy of the proposed text changes, the Director’s Report and Recommendation, and the experience of the lead agency with review of similar legislative actions form the basis for this analysis and decision.

ELEMENTS OF THE ENVIRONMENT

Adoption of the proposed Land Use Code amendments would result in no immediate adverse short-term impacts because the adoption would be a non-project action. The discussion below evaluates the potential long-term impacts that might conceivably result from differences in future development patterns due to the proposed amendments.

Natural Environment

Earth, Air, Water, Plants and Animals, Energy, Natural Resources, Environmentally Sensitive Areas, Noise, Releases of Toxic or Hazardous Materials

The proposed changes would result in no direct impacts, and are unlikely to result in significant indirect or cumulative adverse impacts related to earth, air, water, plants/animals, fisheries, energy, natural resources, sensitive areas, noise, or releases of toxic/hazardous substances. The proposal would in the short term likely lead to reduction in the total numbers of places engaged in major marijuana activity, and in many instances is likely to shift such activities to places away

from residential and designated character areas to industrial and commercially-oriented areas. Such changes would be likely to accommodate such uses with a lower potential for land use compatibility impact concerns.

The likelihood of worst-case pollutant releases to air or water is judged to be low, although releases of substances (such as fertilizers, pesticides, planting soils, and volatile organic solvents like butane or similar liquids) to stormdrains could be possible, as well as odors released through exhaust systems or open doors. This might occur at production or processing facilities. The proposed inclusion of major marijuana uses in “major odor source” rules in the Land Use Code would ensure that ventilation systems are properly defined to avoid the worst-case potential for odor impact. Elevated noise levels as an adverse, but not significant adverse, impact may also be possible.

To the extent that such uses would more likely occur away from residential uses or historic character districts, there would be an overall reduction in the potential for such adverse impacts to affect public health, safety and welfare, such as upon nearby residents. Despite this finding, the proposal does not eliminate the possibility that future uses of this kind could be located in relatively close proximity to residential uses that border on or near commercial zones, and thus future instances of licensed production or processing facilities of this kind that might locate in places near residential uses would generate added potential for these types of adverse impacts.

Overall, the proposal is not likely to result in significant adverse impacts to plants, animals, fish, or marine life because it is not likely to increase discharges or cause uses to be located near any particular sensitive location with these resources – most commercial and industrial zones are currently developed with buildings and impervious surfaces with only occasional and limited presence of plant or animal habitat nearby.

The proposal is also not anticipated to result in substantial additional construction or demolition, and so only minor levels of site-specific impacts of possible future facility development can be anticipated.

Potential development of future projects on individual sites would be subject to the City’s existing regulations, including but not limited to the Stormwater, Grading and Drainage Ordinance, the Environmentally Critical Areas Ordinance, and Noise Ordinance. Such projects would be subject to environmental review if they exceed thresholds for environmental review.

Built Environment

Land & Shoreline Use, Transportation, Public Services and Utilities

The proposal would amend the Land Use Code, to establish locational restrictions on “major marijuana activity” such as the production, processing, and sale of marijuana and marijuana products. The proposal would likely lead to the limiting of the number of entities engaged in production of cannabis plants as agricultural land uses, because only those entities that are licensed by the State could legally operate such uses. This could reduce the probable frequency of such activity in the city of Seattle, at least during the near-term future. Over time, there potentially could be a gradual increase in such activity, which would relate to licensing trends by the State for such activities. However, neither the initial reduction nor the potential for gradual

increase over time are deemed to generate significant adverse impacts on the natural environment.

Given the reduction in probable frequency of such activity, effects of the proposal would include a probable reduction in the potential for land use-related incompatibilities to arise between marijuana-related uses and surrounding land uses. This includes reduction in the probable overall potential for use-related externalities – such as noise, odor, light/glare, increased activity levels – upon residential uses citywide and the several districts noted for their historic character. However, despite this finding, the proposal does not entirely eliminate the possibility that future uses of this kind could be located in relatively close proximity to residential uses that border on or near commercial zones, and thus future instances of licensed production or processing facilities of this kind that might locate in places near residential uses would generate added potential for these types of adverse impacts. Provisions such as proposed applicability of major odor source rules would increase the probability that potential worst-case impacts, such as odor issues, are avoided.

Also, given proposed use-buffering distances in the proposal, there is likely to be a reduction in other potential for impacts relating to public health, safety and welfare that are identified by the State, with respect to proximity to places where children and other people may congregate. There would also be a reduction in the potential for concentrations of marijuana-related uses in any given area due to the proposed 500-foot buffer between any two of these uses to a third such use. These are interpreted for purposes of this SEPA determination as positive impacts upon the built environment, because of the reduced potential for land use incompatibilities, and because they would be likely to achieve compliance with other State-mandated regulatory prescriptions that will govern this kind of land use, and would clarify in which zones such activities are permitted or prohibited.

This ordinance is not likely to increase demands on transportation systems or public services or utilities, as it would primarily limit the scope of certain activities. While minor changes in locational aspects of such businesses would occur, leading to different land use distribution patterns over time, there is no identified resulting potential for significant adverse impacts on transportation or utility systems, or on delivery of public services.

Future projects developed pursuant to the provisions of the proposal would require permits, review and project approvals as provided for in the Seattle Municipal Code and would be subject to environmental review if they meet or exceed thresholds for environmental review.

DECISION - SEPA

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist, the proposed Code amendment, and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirement of the State Environmental Policy Act (RCW 43.21.C), including the requirement to inform the public of agency decisions pursuant to SEPA.

- [X] Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21C.030(2)(c).
- [] Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.030(2)(c).

Signature: _____ Date: _____
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Department of Planning and Development